

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, July 1, 2003

Division Five

**A097072, A097387, A097454 -- Shea Homes Limited Partnership, et al.
v. County of Alameda, et al., Sierra Club, et al., Trafalgar, Inc. v.
County of Alameda, et al.**

The judgment is affirmed. Costs are awarded to respondents. Jones, P. J.
We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Wednesday, July 02, 2003

Division One

A102658 -- Heather D. v. The Superior Court of Contra Costa County; Contra Costa County Children & Family Services Bureau, R.P.I.

The petition for extraordinary writ is denied on the merits. The section 366.26 hearing is set for August 20, 2003. Therefore, this opinion is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A097703 -- Harry W. Low, as Insurance Commissioner, etc. v. Golden Eagle Insurance Company; Leonard Armato et al.

The judgment reversing the decision of GEIC is reversed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Thursday, July 3, 2003

Division One

A101267 -- The People v. Lucio G. Esobel.

Competent counsel represented defendant at all stages of the proceedings. Defendant appeals after a plea and after specifically waiving his right to appeal by any means except as to any sentencing error. There are no sentencing errors. The sole ground stated in the notice of appeal was failure to grant probation. There was no abuse of discretion because the record amply supports the denial of probation. The sentence and judgment are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A099357 -- The People v. Edward John Ellis.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A097487 -- Operating Engineers Local 3 et al. v. Sylvia J. Johnson et al.

The judgment is affirmed. The parties shall bear their respective costs on appeal. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Certified for Partial Publication.)

Thursday, July 3, 2003 (continued)

Division Five

A101486 -- The People v. Ramiro Jack Long.

By the Court:* Prosecution for each of the underlying offenses is, in fact, barred by the ex post facto clause of the United States Constitution, as interpreted by the United States Supreme Court in *Stogner*. Accordingly, the motion for summary reversal is granted, and the trial court's judgment is hereby reversed Pursuant to the stipulation of the parties, this order is final for all purposes immediately upon filing, and the Clerk of the Court shall immediately issue the remittitur herein. (See *Ng v. Superior Court* (1992) 4 Cal.4th 29, 34, fn. 1.)
Gemello, J., Acting P.J.

*Stevens, Acting P.J., and Gemello, J., participating.

Monday, July 07, 2003

Division One

A095680 -- The People v. David Joseph Torrente.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A098693 -- In re the Marriage of Yuriy Skipakevich and Maria Majda.

The appeal is dismissed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Tuesday, July 8, 2003

Division One

A100557 -- The People v. Pamela Marie Allen.

We have thoroughly reviewed the record and find no arguable issues. There are no issues requiring further briefing. The order is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A098590 -- In re the Marriage of Cathleen and William Jeffrey Gilliam.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J. , Margulies, J. (Not for Publication.)

Division Two

A099653 -- Ronald Giampaoli et al. v. Philip M. Wright et al.

The judgment is reversed. The matter is remanded for further proceedings consistent with the views expressed herein. Plaintiffs Wright shall recover their costs on appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, July 8, 2003

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Reardon, Acting P.J. and Sepulveda, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Aron Ching, Bailiff.

Acting P.J. Reardon announced from the bench that P.J. Kay is absent due to a personal emergency.

A102553 Juana C.
 v.
 San Francisco Superior Court
Cause called and counsel waived Justice Kay's appearance on the bench. Richard P. Koch argued for petitioner Juana C. Bruce Blumberg argued for real party in interest Amy C. Cause submitted.

A096552 Leland B. Evans et al.
 v.
 F. Richard Losey
Cause called and counsel waived Justice Kay's appearance on the bench. E. Patrick Morris argued for appellant Losey. Nick T. Reckas argued for respondents. Cause submitted.

At this point the Court reconstituted itself for the next cause. The Court for the next cause consists of Sepulveda, Acting P.J. and Rivera, J.

A098597 Eleazar Garcia
 v.
 Department of Motor Vehicles
Cause called and counsel waived Justice Kay's appearance on the bench. Deputy Attorney General Lyn Harlan argued for appellant DMV. Peter Goodman argued for respondent. Cause submitted.

A097477 California Hispanic Commission on Alcohol and Drug Abuse
 v.
 California Department of Human Services et al.
Cause called and counsel waived Justice Kay's appearance on the bench. Gaspar Garcia argued for appellant Commission. Deputy Attorney General

Cheryl L. Feiner argued for respondents. Cause submitted.

The Court adjourned at 10:46 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, July 8, 2003

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Aron Ching, Bailiff.

Acting P.J. Reardon announced from the bench that P.J. Kay is absent due to a personal emergency.

A099170 People
 v.
 Dwayne Stamps
Cause called and each counsel waived PJ Kay's presence on the bench. Thea Greenhalgh argued for appellant Stamps. Christopher Wei argued for respondent. Cause submitted.

A099735 Alvin Veracruz
 v.
 City and County of San Francisco
Cause called and each counsel waived PJ Kay's presence on the bench. Charles O. Morgan, Jr. argued for appellant Veracruz. Jonathan Lee argued for respondent. Cause submitted.

The judicial panel for the following cases consists of Kay, P.J., Sepulveda, J., and Rivera, J.

A100307 Douglas Pearson
 v.
 Andor Elbert
Cause called and each counsel waived PJ Kay's presence on the bench. Samuel Shepherd argued for appellant Elbert. Steven H. Henderson argued for respondent. Cause submitted.

A098797 Karen Schneider

v.

Charles Tuttle

Cause called and each side waived PJ Kay's presence on the bench. Michael Morrissey argued for appellant Tuttle. In pro per respondent Karen Schneider teleargued. Cause submitted.

A098708 In re Sunshine S., a minor.

Social Services Agency

v.

Rhonda S.

Cause called and each counsel waived PJ Kay's presence on the bench. Roland Simoncini teleargued for appellant Rhonda S. Michael Mazzei teleargued for respondent. Cause submitted.

The Court adjourned at 3:27 p.m.

Wednesday, July 09, 2003

Division One

A103052 -- Ronald Lee Freeman v. The Superior Court of Marin County; The People, R.P.I.

The Court:* Let a peremptory writ of mandate issue, commanding respondent Marin County Superior Court to set aside its June 18, 2003 order denying petitioner's request to make a motion to disqualify, and to instead permit petitioner to renew his motion and to be sworn in accordance with Code of Civil Procedure section 170.6. This opinion shall be final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Therefore, a stay of proceedings below is unnecessary, and petitioner's request for a stay is denied. (Not for Publication.)

*Before Marchiano, P.J., Stein, J. and Swager, J.

A100650 -- The People v. Mario Herrera.

By the Court: The petition for rehearing filed by appellant Mario Herrera is denied. Marchiano, P.J.

A100854 -- Joseph Leonard Neufeld v. Sylvia K. Shapiro-Pritchard.

The judgment is affirmed. Costs are awarded to respondent. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A095643 -- The People v. Robert Jessie Cruz, Jr.

Order Modifying Opinion and Denying Petition For Rehearing. It is ordered that the unpublished opinion filed herein on June 24, 2003, is modified as follows. (See order.) There is no change in the judgment. Appellant's petition for rehearing is denied. Kline, P.J. (Not for Publication.)

A098162 -- The People v. Eli Saul Levine.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Wednesday, July 09, 2003 (continued)

A102766 -- Paula Lighting, et al. v. Resources for Community Development.

By the Court: Appellant having failed to procure the record on appeal within the time allowed or within any valid extensions of time, and having failed to apply for relief from default, the appeal filed on May 27, 2003 is dismissed. (See Cal. Rules of Court, rule 8(b).) Kline, P.J.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, July 9, 2003

Court convened at 9:05 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Corrigan J., Parrilli J., and C. Turner, Deputy Clerk.

A098430 In re Kevin N.,
The People,
v.
Kevin N.

Cause called and argued by Laretta M. Oravitz, counsel for appellant, and Linda Murphy, counsel for respondent. Cause ordered submitted.

Justice Pollak took his seat on the bench. The panel on the following case is now comprised of Justice McGuiness, Justice Corrigan and Justice Pollak.

A096669 Robert Boisvert,
v.
Martinez Unified school District,
Cause called and argued by Dolores M. Donohoe, counsel for appellant, and Stephan C. Williams, counsel for respondent. Cause ordered submitted.

The panel on the following two cases are comprised of Justice Corrigan, Justice Parrilli, and Justice Pollak.

A099585 In re Warner B.,
The People,
v.
Warner B.,
Cause called and argued by Laretta M. Komlos, counsel for appellant, and Linda Murphy, counsel for respondent. Cause ordered submitted.

A096637 George Hoffberg,
v.
Mark Middleton,
Cause called and argued by David H. Schwartz, counsel for appellant, and Nancy M. Conway, counsel for respondent. Cause ordered submitted.

The panel on the following case is comprised of Justice McGuiness, Justice Corrigan and Justice Pollak.

A098606

Stacey V. Johnson,

v.

Boland Inc.,

Justice McGuiness called the above-entitled case. No appearance by appellant. Counsel for respondent Charleton Spencer Pearse was present and waived argument. Cause ordered submitted.

court adjourned

Wednesday, July 09, 2003 (continued)

Division Four

A099619 -- James Miles v. Department of Corrections et al.

In light of the foregoing, we must conclude that although the causes of action based on the first of his two FEHA claims were time-barred, those based on the second of his FEHA claims were not. Accordingly, the trial court erred in sustaining defendants' general demurrer to the entirety of plaintiff's complaint without granting leave to amend. The judgment of dismissal must be reversed. The parties shall bear their respective costs of appeal. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A097740 -- Nancy Owens v. Estate of James Every, et al.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A102199 -- The People v. Marc Patrick Radcliffe.

The order permanently revoking appellant's probation and the sentence imposed are affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Thursday, July 10, 2003

Division One

A097186 -- The People v. Michael Devon Burrus, Jr.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.) -

A100087 -- The People v. Linda Marie Deem.

The judgment is modified to reduce the section 1203.4 fine to \$200, and add the mandatory section 1202.45 fine in the amount of \$200, which is suspended unless parole is revoked. As modified, the judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A098377 -- Estate of June D. Schnacke, Deceased.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, July 10, 2003

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Margulies, J., and F. Abad, Deputy Clerk.

A099633 Mladen Vukic, et al.,
 v.
 Schnebly Building & Design, Inc.
Cause called and argued by Bruce Prescott, counsel for appellants, and David Sofaer, counsel for respondent. Cause ordered submitted.

A100742 Michelle Horneff,
 v.
 City and County of San Francisco, et al.
Cause called and argued by Rafal Ofierski, counsel for appellants, and John Mueller, counsel for respondent. Cause ordered submitted.

A100618 Terrence Beard,
 v.
 Gary Goodrich, et al.
Cause called and argued by Geordan Goebel, counsel for appellant, and Patrick McMahon, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Marchiano left the bench and Justice Swager joined the bench. Justice Stein presided over the remainder of the calendar.

A099014 Brandon G., et al., Minors,
 v.
 Patricia Gray.
Cause called and argued by Douglas Provencher, counsel for appellant, and Paul Frassetto, counsel for respondents and cross-appellants. Cause ordered submitted.

A100716 Carolyn Wright, et al,

v.

Dexter Corporation.

Cause called and argued by David Polin, counsel for appellants, and Mark Intrieri, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, July 10, 2003

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

Justice Margulies did not participate in argument of the first case.

A099012 Hartford Casualty Insurance Company,
 v.
 Travelers Indemnity Company.
Cause called and argued by James C. Nielsen, counsel for appellant, and Marc J. Derewetzky, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Stein left the bench and Justice Margulies participated in the remainder of the afternoon calendar.

A096214 The People,
 v.
 Ismael Michael Pimentel.
Cause called and argued by William M. Balin, counsel for appellant, and Gregg E. Zywicke, counsel for respondent. Cause ordered submitted.

A100416 Suzanne Harvill,
 v.
 Fleetwood Enterprises, Inc., et al.
Cause called and argued by William E. Manning, counsel for appellants, and Mark F. Anderson, counsel for respondent. Cause ordered submitted.

Court adjourned.

No cases were argued on July 11, 2003.

Thursday, July 10, 2003 (continued)

Division Four

A099759 -- The People v. Raymond T. Crims.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A099122 -- The People v. Donald Wren Kimball.

By the Court:* Prosecution for each of the underlying offenses is, in fact, barred by the ex post facto clause of the United States Constitution, as interpreted by the United States Supreme Court in *Stogner*. Accordingly, the motion for summary reversal is granted, and the trial court's judgment in Sonoma County Superior Court Case No. SCR30148 is hereby reversed. Pursuant to the stipulation of the parties, this opinion is final for all purposes immediately upon filing, and the Clerk of the Court shall immediately issue the remittitur herein. (See *Ng v. Superior Court* (1992) 4 Cal.4th 29, 34, fn. 1.) Because defendant was recently sentenced to state prison on other charges, we express no opinion as to his ongoing custodial status. (Not for Publication.)

*Kay, P.J., and Reardon, J., participating.

Division Five

A100446 -- In re Shawn G., a Person Coming Under the Juvenile Court Law. The People v. Shawn G.

The disposition is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Friday, July 11, 2003

Division One

A097893 -- The People v. John Joseph Brennan.

By the Court: The petitioner for rehearing is denied. Marchiano, P.J.

A101057 -- In re Jessica L., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Services Agency v. Jessie L.

By the Court: The court has reviewed the record and appellant's response to the order to show cause, and hereby dismisses the appeal as untimely filed. The order appealed from was announced in open court on August 14, 2002, triggering the sixty-day period in which to file a notice of appeal. (California Rules of Court, rule 39.1(f).) The notice of appeal was not received until December 6, 2002. Neither the exception set forth in *In re Markaus V.* (1989) 211 Cal.App.3d 1331, which first requires a written order to be filed, nor the doctrine of constructive filing, or relief from late filing is applicable. (*In re Alyssa H.* (1994) 22 Cal.App.4th 1249, 1254.) Stein, Acting P.J.

A099208 -- In re Mark P., a Person Coming Under the Juvenile Court Law. The People v. Mark P.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A097568, A097692, A097701, A097705, A097744, A097924, A098686 -- In re Retirement Cases. [Eight coordinated cases.]

The judgments are affirmed. No party is awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Certified for Publication.)

Friday, July 11, 2003 (continued)

Division Three

A100192 -- The People v. William Charles Bateham.

The Attorney General has acknowledged that defendant's conviction should be reversed in light of the recent decision of the United States Supreme Court in *Stogner v. California* (June 26, 2003, No. 01-1757) ___US. ___ [2003 WL 21467073], waived oral argument, and stipulated to immediate issuance of the remittitur. Accordingly, the judgment is hereby reversed. Pursuant to stipulation, this opinion is final for all purposes immediately upon filing, and the clerk of the court shall immediately issue the remittitur herein. (See *Ng v. Superior Court* (1992) 4 Cal.4th 29, 34, fn. 1.) Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A099372 -- In re Anthony M., a Person Coming Under the Juvenile Court Law. The People v. Anthony M.

The dispositional order committing appellant to county jail is vacated, and the matter is remanded to the juvenile court for further dispositional proceedings and a hearing in accordance with applicable juvenile court law. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

A097195 -- The People v. Suhair Ali Agha.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A098708 -- In re S. S., a Person Coming Under the Juvenile Court Law. Del Norte County Department of Social Services v. Ronda S.

The order is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Friday, July 11, 2003 (continued)

A100147 -- In re Keivon W., a Person Coming Under the Juvenile Court Law. The People v. Keivon W.

The minute order shall be amended as specified herein. In all other respects, the judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Monday, July 14, 2003

Division Four

A099170 -- The People v. Dwayne Stamps.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J.
(Not for Publication.)

Tuesday, July 15, 2003

Division One

A099581 -- In re Ryan D. and Anthony S., Persons Coming Under the Juvenile Court Law. Sonoma County Social Services Agency v. Anthony S. and Shauna D.

Order Modifying Opinion and Denying Rehearing. The Court:

It is ordered that the opinion filed herein on June 16, 2003, be modified in the following particulars: (See order.) There is no change in the judgment. The petition for rehearing is denied. Swager, J., Acting P.J. (Not for Publication.)

Division Two

A101980 -- In re Jacob B. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Social Services Agency v. Tessa P.

By the Court: By notice of appeal filed on March 13, 2003, appellant Tessa P. purports to appeal from the trial court's February 11, 2003 orders terminating reunification services and setting the underlying matters for hearings under Welfare and Institutions Code section 366.26. The challenged rulings are not appealable. (See Welf. & Inst. Code, § 366.26, subd. (1).) Accordingly, the above-referenced appeal is hereby dismissed. Kline, P.J.

A099624 -- The People v. Dane Aaron Gasper.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A099653 -- Ronald Giampaoli and Diana Giampaoli v. Philip M. Wright and Penelope J. Wright.

Order Modifying Opinion. The Court: It is ordered that the opinion filed herein on July 8, 2003, be modified as follows: (See order.) There is no change in the judgment. Kline, P.J. (Not for Publication.)

Tuesday, July 15, 2003 (continued)

A102224 -- Abdul N. Saiyad, et al. v. John H. Wooley.

By the Court: Appellant having failed to pay the statutory filing fee in compliance with rule 1(b)(1) of the California Rules of Court, after notice having been given pursuant to rule 1(c)(1), the appeal filed on April 2, 2003 is dismissed. Kline, P.J.

Division Three

A099585 -- In re Warner B., a Person Coming Under the Juvenile Court Law. The People v. Warner B.

The juvenile court's order is modified to strike the finding that a petition under section 777, subdivision (a) is "true as alleged" and replaced it with an order stating the petition under Section 777, subdivision (a) is "dismissed." In addition, the portion of the order stating a maximum theoretical period of confinement of three years ten months is modified to reflect 16 days of credit for time served. In all other respects, the juvenile court's orders are affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

A100048 -- Micheline Benoit v. Eddy Benoit.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

A096637 -- George Hoffberg v. Mark Middleton.

The appeal is dismissed. Middleton shall recover his costs on appeal. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

A100720 -- The People v. Steven Paul Medina.

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Tuesday, July 15, 2003 (continued)

Division Four

A102553 -- Juana C. v. The Superior Court of San Francisco County; San Francisco County Department of Human Services, et al., R.P.I.

The petition is denied on the merits. (Cal. Rules of Court, rule 39.1B(o).) This decision is final immediately. (*Id.*, rule 24(b)(3).) Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A096552 -- Leland Evans et al. v. F. Richard Losey et al.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A101926 -- In re Michael F., a Person Coming Under the Juvenile Court Law. The People v. Michael F.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A098597 -- Eleazar Garcia v. Department of Motor Vehicles.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A100229 -- In re Martin H., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children and Family Services v. Roy H., Jr.

The order is reversed, subject to reinstatement upon compliance with the ICWA notice requirements. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A100307 -- Douglas Pearson v. Andor Elbert.

The judgment is affirmed. The parties are to bear their own costs on this appeal. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Wednesday, July 16, 2003

Division One

A099012 -- Hartford Casualty Insurance Company v. Travelers Indemnity Company.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Certified for Publication.)

Division Two

A099312 -- John C. Paxton v. James Giller et al.

The judgment is affirmed. Respondents shall recover their costs and their reasonable attorney fees on this appeal. The amount of attorney fees shall be set by the superior court. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A098758 -- The People v. Robert Allen Wigley.

The order revoking probation is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, July 16, 2003

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J. and I. Santos, Deputy Clerk.

- A098699 The People,
 v.
 Ken Godfred Verduzco.
Cause called and argued by George C. Martinez, counsel for appellant, and Martin Kaye, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A099722 William J. Harnedy,
 v.
 Mary B. Harnedy Whitty.
Cause called and argued by Michael S. Klein, counsel for appellant, and John Joseph Cullen, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Wednesday, July 16, 2003 (continued)

Division Three

A096669 -- Gerloma G. Boisvert v. Martinez Unified School District.

The judgment is vacated, and a new judgment is ordered entered in favor of the appellant District on all of the alleged causes of action of the underlying complaint. Each side shall bear its own costs on this appeal. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

A098430 -- In re Kevin N., a Person Coming Under the Juvenile Court Law. The People v. Kevin N.

The March 29, 2002, dispositional order is modified by striking the words, "SUPPL 777a W&I COURT FINDS TRUE," and substituting the words, "SUPPL 777a W & I DISMISSED." The order, as modified, is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Five

A100556 -- The People v. Albert Malicay.

The order is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Thursday, July 17, 2003

Division One

A102910 -- Russell D. McNabb v. The Superior Court of San Mateo County; Carol Gordon-McNabb, R.P.I.

By the Court:* We notified all parties that we might act by issuing our peremptory writ in the first instance. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-180.)~(Oppo request letter)~ The petition is unopposed, and no useful purpose would be served by issuance of an alternative writ, further briefing and oral argument. (*Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1240-1241.) Therefore, let a peremptory writ of mandate issue, commanding respondent, San Mateo County Superior Court, in *McNabb v. McNabb* (2003, No. 074518), to vacate its June 10, 2003, order compelling Ronald McNabb to submit to drug testing. The stay previously imposed shall remain in effect until the remittitur issues. Petitioner McNabb shall recover his costs. This opinion is final as to this court immediately. (Cal. Rules of Court, rule 24(d)(2).)

*Before Stein, Acting P.J., Swager, J., and Margulies, J. (Not for Publication.)

Division Two

A097719 -- The People v. Antonio Fernandes.

By the Court: It is ordered that the opinion filed herein on June 19, 2003, be modified as follows: (See order.) There is no change in the judgment, and the Petition for Rehearing is denied. Kline, P.J. (Not for Publication.)

A091583 -- The People v. Darrell Hunter.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

A098606 -- Stacey Johnson v. Boland Inc.

The judgment is affirmed. Costs to respondents. Parrilli, J. We Concur:
McGuinness, P.J., Corrigan, J. (Not for Publication.)

Thursday, July 17, 2003 (continued)

A098412 -- The People v. Edward Harrington Williams.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Friday, July 18, 2003

Division One

A100742 -- Michelle L. Horneff v. City and County of San Francisco et al.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

Division Three

A102787 -- Jeanette B. v. The Superior Court of Alameda County; Alameda County Social Services Agency, R.P.I.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Since the permanency planning hearing is set for September 3, 2003, this decision is immediately final as to this court. (Cal. Rules of Court, rule 24(d).) Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A096749 -- Vitton Construction Co., Inc., et al. v. Pacific Insurance Co.

Order Modifying Opinion and Granting Request for Publication. The Court: On the court's own motion, it is ordered that the opinion filed herein on June 20, 2003, be modified as follows: (See order.) There is no change in judgment. The request for publication by appellants Vitton Construction Company and AIU Insurance Company is granted, and the opinion filed on June 20, 2003 is hereby ordered published as modified by this order. Corrigan, Acting P.J. (Certified for Publication.)

Division Four

A097477 -- California Hispanic Commission on Alcohol and Drug Abuse, Inc. v. Department of Alcohol and Drug Programs.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Monday, July 21, 2003

Division One

A099904 -- County of Alameda v. Harry J. Williby.

The order subject to appeal is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A099023 -- In re Jasmine C., et al., Persons Coming Under the Juvenile Court Law. Social Services Agency v. Jasmine C., et al.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

A099737 -- Information Systems and Networks Corporation v. Berg & Parker.

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed herein on June 25, 2003, be modified in the following particulars: (See order.) There is no change in the judgment. The petition for rehearing is denied. Stein, Acting P.J. (Not for Publication.)

Division Two

A097747, A098853 -- The People v. Victor Jimenez.

Appellant's sentence is vacated and the matter is remanded for resentencing in accordance with the views expressed herein. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Five

A102524 -- In re Ayassa W., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Shawn W.

By the Court: On May 21, 2003, this court ordered appellant Shawn W. to show cause why the above-referenced appeal should not be dismissed as untimely. (See Cal. Rules of Court, rule 39(b); see also *In re Alyssa H.* (1994) 22 Cal.App.4th 1249.) The time for a response having elapsed, and no response having been filed, the appeal is hereby dismissed as untimely. Jones, P.J.

Tuesday, July 22, 2003

Division One

A099633 -- Mladen Vukic et al. v. Schnebly Building & Design, Inc.

The summary judgment and the order denying relief from default are affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Four

A099002 -- The People v. Lucia Barajas.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

A098729 -- J.H. McKnight Ranch, Inc. v. Franchise Tax Board.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Certified for Publication.)

A100525 -- In re Nyles S., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Kimberly C.

The order terminating parental rights is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A101149 -- In re Tianna W., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. William W.

The dispositional order is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Wednesday, July 23, 2003

Division One

A100618 -- Terrence A. Beard v. Gary Goodrich et al.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Certified for Partial Publication.)

A100416 -- Suzanne Harvill v. Fleetwood Enterprises, Inc. et al.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A096214 -- The People v. Ismael Michael Pimentel.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A102941 -- Beverly Quinney v. Monte Smith.

By the Court: Appellant having failed to pay the statutory filing fee in compliance with rule 1(b)(1) of the California Rules of Court, after notice having been given pursuant to rule 1(c)(1), the appeal filed on June 11, 2003 is dismissed. Kline, P.J.

Division Three

A099374 -- People v. Valli Colleen Ramirez.

Judgment affirmed. Parrilli, J. I Concur: Corrigan, Acting P.J. (See dissenting opinion by Pollak, J.) (Not for Publication.)

A098670 -- The People v. Scott Blane Stancil et al.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Wednesday, July 23, 2003 (continued)

Division Four

A102467 -- The People v. Charles Douglas Smith.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

A100861 -- Donald L. Barker et al. v. Thomas Chappell et al.

The judgment is affirmed. Defendants shall recover their costs for this appeal. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A100148 -- In re Maricella M. et al., Persons Coming Under the Juvenile Court Law. Sonoma County Department of Human Services v. Kim M.

The order terminating parental rights is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Wednesday, July 23, 2003

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J.; Gemello, J.; and Richard H. Sandvik, Deputy Clerk.

A09875 Raymond J. Mason, et al.

6

v.

Retirement Board of the City and County of San Francisco

Cause called and argued by Duane W. Reno and Greg Adam counsel for appellants, and by, Arthur A. Hartinger, counsel for respondent. Cause ordered submitted.

A09991 Bettina N. Hayes

3

v.

J. Allen Hayes, et al.

Cause called and argued by J. John Turri, counsel for appellant, arguing via teleconference and by Louis H. Castoria, counsel for respondents. Cause ordered submitted.

A10016 Terrence Hall

5

v.

Jessie Abrams Hall

Cause called and argued by Eugene Schneider, counsel for appellant, and by Michael C. Hall, counsel for respondent. Cause ordered submitted.

A09592 The People

4

v.

James Washington

Cause called and argued by Marc J. Zilversmit, counsel for appellant, and by Jeremy Friedlander, counsel for respondent. Cause ordered submitted.

A09928 The People

4 v.

Darrell Williams

Cause called and argued by Janice M. Brickley, counsel for appellant, and by Gregg Zywicke, counsel for respondent. Cause ordered submitted.

- A09906 Michael A. Waul
6 v.
Charles Schwab & Co., Inc.
Cause called and argued by, William L. Stern, counsel for appellant, and by Michael A. Waul, respondent in pro per. Cause ordered submitted.
- A10070 Kathy Bricker
2 v.
Petaluma City Schools et al.
Cause called and argued by Richard D. Ackerman, counsel for appellant, and by Scott N. Kivel, counsel for respondent. Cause ordered submitted.
- A09741 Moving Media, Inc.
7 v.
Speck Cab Company
Cause called and argued by Tony J. Tanke, counsel for appellant, and by Thomas G. Martinchek, counsel for respondent. Cause ordered submitted.
- A10015 Kevin A. Richardson
6 v.
The Learning Company
Cause called and argued by John B. McMorrow, counsel for appellant, and by Scott G. Lawson, counsel for respondent. Cause ordered submitted.
- A10106 In re Christopher B., a Person Coming Under the Juvenile Court Law
3 The People
v.
Christopher B.
Cause called and argued by Charles B. Holzhauer, counsel for appellant, arguing via teleconference, and by John Dasher, Certified Law Student, arguing for respondent. Cause ordered submitted.

Court adjourned at 12:13 p.m.

Thursday, July 24, 2003

Division Two

A094582 -- The People v. Eric Hsu.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A098763 -- The People v. James McClary.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A098354 -- In re Vitamin Cases. (San Francisco County Judicial Council Coordination Proceedings No. 4076, Master File No. 301803)

We reverse the award of attorney fees and costs in this case and remand that issue to the trial court for reconsideration in light of the specific concerns we have expressed above. Each party is to bear their own costs on appeal. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Certified for Partial Publication.)

Division Four

A098797 -- Karen Schneider v. Charles Tuttle.

The order is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

A100981 -- In re Curt A., a Person Coming Under the Juvenile Court Law. The People v. Curt A.

The order adjudicating appellant a ward of the juvenile court is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Friday, July 25, 2003

Division Two

A102531 -- In re Veronica P., a Person Coming Under the Juvenile Court Law. Amber P. v. San Francisco County Superior Court; San Francisco Department of Human Services, R.P.I.

The petition for extraordinary relief is denied on its merits. (See Cal. Const., art. VI, § *Kowis v. Howard* (1992) 3 Cal.4th 888.) Petitioner is barred in any subsequent appeal from making further challenges to the order setting a hearing under section 366.26. (See § 366.26, subd. (1)(2).) Since the permanency planning hearing is set for August 27, 2003, this opinion is final as to this court forthwith. (Rule 24(b)(3).) Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Four

A100037 -- In re Allen K., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Shunika J.

The order is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A100702 -- Kathy Bricker v. Petaluma City Schools et al.

The purported appeal is dismissed. Respondents are awarded their costs on appeal. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A100451 -- In re Foley C., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Paul C.

The order is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Friday, July 25, 2003 (continued)

A101128 -- Medical Board of California v. Superior Court For the City and County of San Francisco; Lee Roy Liskey, M.D., R.P.I.

Constitutional constraints, the statutory scheme of which section 2354 is a part, and the purposes behind physician discipline expressed in sections 2229 and 2340 all support the conclusion that mere failure to complete successfully an agreed-on diversion program is not a basis for discipline under section 2354. The order to show cause is discharged, and the petition for writ of mandate is denied. Liskey shall recover costs pursuant to California Rules of Court, rule 56.4. The stay is dissolved upon the finality of the opinion as to this court. (Cal. Rules of Court, rule 24(b)(1).) Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Monday, July 28, 2003

Division One

A101062 -- Glass Mountain Pumice, Inc. v. Bay Cities Paving & Grading, Inc.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A101343 -- Estate of Miguel Rossello, Jr., Deceased.

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed herein on June 26, 2003 be modified as follows: (See order.) There is no change in the judgment. Appellant's petition for rehearing is denied. Respondent's request for sanctions is denied. Marchiano, P.J. (Not for Publication.)

A100716 -- Carolyn Wright et al. v. Dexter Corporation.

The judgment is reversed. Costs on appeal are awarded to appellants. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

A095928 -- The People v. Jose Mario Saravia.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A099174 -- The People v. Harold Nicolas.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Monday, July 28, 2003 (continued)

Division Four

A100925 -- The People v. Wendy Marie Bruce.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

A100711 -- Fremont Bank v. Subacute Medical Services et al.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A101461 -- The People v. Joshua Christopher Mahan.

Because the trial court already has granted defendant the relief he seeks herein on appeal, the only potential issue raised by this appeal is moot. Accordingly, the appeal is dismissed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A095924 -- The People v. James Washington.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Tuesday, July 29, 2003

Division Two

A099358 -- The People v. Keith Gregory Guzman.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J.
(Not for Publication.)

Division Three

A097684 -- The People v. Alexander A. Cuyugan.

A102736 -- In re Alexander A. Cuyugan, on Habeas Corpus.

The matter is remanded for resentencing on counts 15 through 23. The judgment is affirmed in all other respects. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, July 29, 2003

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kay, P.J., Sepulveda, J. and Rivera, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Aron Ching, Bailiff.

A100231 Mendocino Transit Authority
 v.
 Henry O. Erickson et al.
Cause called. Andrea Saltzman argued for appellant Mendocino Transit Authority. Ozro W. Childs argued for respondents. Cause submitted.

At this point the Court reconstituted itself for the next cause. The Court for the next cause consists of Kay, P.J., Reardon, J. and Rivera, J.

A099325 Kanwar Sain Bagai
 v.
 Ali Kashani et al.
Cause called. Stephen H. Dye argued for appellants Kashani et al. James T. Straw argued for respondent. Cause submitted.

At this point the Court reconstituted itself for the next cause. The Court for the next cause consists of Kay, P.J., Reardon, J. and Sepulveda, J.

A101258 Ron Patterson
 v.
 Lesterene Viera
Cause called. Henry Walters argued for appellant Viera. Laura R. Spease argued for respondent. Cause submitted.

The Court adjourned at 10:38 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, July 29, 2003

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Joe Frasier, Bailiff.

- A094861 People
 v.
 Marcos Ranjel
Cause called. Victor Morse argued for appellant Ranjel. Seth Schalit argued for respondent. Cause submitted.
- A100763 Venus Lillybridge
 v.
 American Trans Air
Cause called. Appellant in pro per Lillybridge argued. Kymberly Speer argued for respondent. Cause submitted.
- A100632 Shao Mei Guo
 v.
 City and County of San Francisco
Cause called. Mark G. Bonino argued for appellant Guo. Peter Keith argued for respondent. Cause submitted.

The Court adjourned at 2:14 p.m.

Tuesday, July 29, 2003 (continued)

Division Five

A097417 -- Moving Media, Inc. v. Speck Cab Company.

The order is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J.
(Not for Publication.)

**A097072, A097387, A097454 -- Shea Homes Limited Partnership et al.
v. County of Alameda et al., Sierra Club et al., Trafalgar, Inc. v. County of
Alameda.**

The Court: The opinion in the above-entitled matter filed on July 1, 2003, was not certified for publication in the Official Report. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Jones, P.J. (Certified for Publication.)

Wednesday, July 30, 2003

Division Two

A099722 -- William J. Harnedy v. Mary B. Harnedy Whitty.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J.
(Certified for Publication.)

A099775 -- Kevin Robert Korb v. Cutler Trucking, Inc.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J.
(Not for Publication.)

Division Three

A099973 -- In re Shane K., a Person Coming Under the Juvenile Court Law. The People v. Shane K.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (See concurring opinion by Pollak, J.) (Not for Publication.)

A100271 -- Dolores A. Martin v. City of Antioch, et al.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A098578 -- Dolores A. Martin v. City of Antioch, et al.

The trial court's grant of summary judgment as to respondents Worth, Garcia and Moczulski is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A096407 -- The People v. Victor Jesus Meza.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Wednesday, July 30, 2003 (continued)

A094419 -- The People v. Failautusi Moevao.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A099090 -- The People v. Gregory Joseph Ott.

By the Court: The petition for rehearing is denied: Appellant's application for appointment of counsel is denied. McGuiness, P.J.

A101236 -- The People v. Joleen Uzarewicz-Lewallen.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A100326 -- Bernadette Barden et al. v. The Permanente Medical Group, Inc.

The orders granting the motions for admissions and sanctions, and the judgment, are affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A100540 -- In re Gary F., a Person Coming Under the Juvenile Court Law. The People v. Gary F.

The order is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A103100 -- Sandra M. v. The Superior Court of Contra Costa County; Contra Costa Children and Family Services Agency, R.P.I.

Nevertheless, we have examined the petition and the record. We conclude the juvenile court's findings and order are supported by the record, and that petitioner has not "tendered an arguable issue." (*Joyce G. v. Superior Court, supra*, 38 Cal.App.1501 at p. 1514.) The petition for extraordinary writ is denied. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Wednesday, July 30, 2003 (continued)

**A100347 -- In re F.S., a Person Coming Under the Juvenile Court Law.
Alameda County Social Services Agency v. Lisa W.**

The juvenile court order is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A097480 -- Ricky E. Shaddox v. Jeffrey J. Bertani.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Certified for Publication.)

A101752 -- The People v. Dustin A. Woolf.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

A097381 -- The People v. David Washington.

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

A099284 -- The People v. Darrell Williams.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Thursday, July 31, 2003

Division One

A098539 -- The People v. David Arthur Vichi.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A097226 -- The People v. Anthony Pina.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A098653 -- The People v. Kenneth R. Bowen.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A099510 -- The People v. Damien D. Olive.

We find no arguable errors for review pursuant to *People v. Wende, supra*, 25 Cal.3d 436. The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Thursday, July 31, 2003 (continued)

A088985 -- Pacific Bell v. Covad Communications Company.

The remittitur is recalled, and this court's previous dispositional orders are vacated. The parties' motion to vacate the judgment of the superior court is denied, and the matter is remanded to the trial court with directions to reinstate the judgment on the arbitration award. The appeal is dismissed as moot. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A100021 -- The People v. Michael Lawrence Roberts.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

A099325 -- Kanwar Sain Bagai v. Ali Kashani et al.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A101810 -- The People v. Michael Beard, Jr.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A100632 -- Shao Mei Guo v. City and County of San Francisco.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A101258 -- Conservatorship of the Person and Estate of Henry Enos Viera.

The order is affirmed. Appellant is ordered to pay costs to respondent. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Thursday, July 31, 2003 (continued)

Division Five

A101063 -- In re Christopher B., a Person Coming Under the Juvenile Court Law. The People v. Christopher B.

The disposition order is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A101225 -- The People v. Robert Lee Erskine.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A099553 -- City and County of San Francisco v. Kenneth Strickland.

The judgment is reversed. The case is remanded for further proceedings consistent with this opinion. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A099066 -- Michael A. Waul v. Charles Schwab & Co., Inc.

We affirm the portion of the trial court's order denying arbitration of Waul's injunctive claims. We reverse the portion of the trial court's order denying arbitration of Waul's restitution and disgorgement claims. On remand, "the trial court has the discretion to stay proceedings on the inarbitrable claims pending resolution of the arbitration." (*Cruz, supra*, 30 Cal.4th at p. 320.) We remand to allow the trial court to exercise its discretion in the first instance. Costs are awarded to Schwab. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A100238 -- The People v. Marvin Williams.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)